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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,949	07/21/2005	Toshiya Kudo	08295.0003-00000	9152

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EXAMINER

VERLEY, NICOLE T

ART UNIT

PAPER NUMBER

3616

MAIL DATE

DELIVERY MODE

05/08/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/542,949

**Applicant(s)**

KUDO ET AL.

**Examiner**

NICOLE VERLEY

**Art Unit**

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

The amendment filed January 9, 2009 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Applicant is now claiming a collision predicting unit; a first winding control unit; a second winding control unit; a winding motor release control unit, the applicant has disclosed in the specification a microcomputer controlling different aspects of a seatbelt apparatus (pages 5 - 12), but does not disclose any of the units now claimed. Also, a brake detecting unit to detect operation of a brake pedal and wind the seatbelt to the second winding load is being claimed. As disclosed in figure 2 and page 6 lines 3 - 6 in the specification the brake pedal switch has a function to detect sudden braking or when the pedal is deeply pressed, not just operation of the brake pedal.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claims 1, 2 and 9 are objected to because of the following informalities:

Claims 1 and 9, line 3 "only one winding motor" should be --a winding motor--;

Claims 1 and 9, lines 5 and 7 "the one winding motor" should read --the winding motor--;

Claim 1, line 12 "the one winding motor" should read --the winding motor--;

Claim 2, lines 3 and 7 "the one winding motor" should read --the winding motor--;

Claim 9, line 13 "the one winding motor" should read --the winding motor--.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 -13 and 19 and 20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant is now claiming a collision predicting unit; a first winding control unit; a second winding control unit; a winding motor release control unit, the applicant has disclosed in the specification a microcomputer controlling different aspects of a seatbelt apparatus (pages 5 - 12), but does not disclose any of the units now claimed. Also, a brake detecting unit to detect operation of a brake pedal and wind the seatbelt to the second winding load is being claimed. As disclosed in figure 2 and page 6 lines 3 - 6 in the specification the brake pedal switch has a function to detect sudden braking or when the pedal is deeply pressed, not just operation of the brake pedal.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 2 recites the limitation "the emergency braking detecting unit" in line 13.

There is insufficient antecedent basis for this limitation in the claim.

Claim 13 recites the limitation "the emergency braking detecting unit" in line 2. There is insufficient antecedent basis for this limitation in the claim.

### ***Response to Arguments***

Applicant's arguments, see page 8, lines 5 -20, filed January 9, 2009, with respect to the rejection(s) of claim(s) 1-4, 7, 9-12, 19 and 20 under 35 USC 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of the applicants' failure to properly claim the disclosed invention as discussed in the 112 rejections above.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Specht (US Patent No. US-6,394,495 B1), Yano et al. (US Patent No. US-6,908,112 B2), Tobata (US Patent No. US-7,028,802 B2) and Hishon et al. (US Patent No. US-7,140,571 B2).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NICOLE VERLEY whose telephone number is (571)270-3542. The examiner can normally be reached on 8:00 AM - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (571) 272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/N. V./  
Examiner, Art Unit 3616

/Paul N. Dickson/  
Supervisory Patent Examiner, Art Unit 3616